

JERSEY / JUDGMENT

AG -v- Giles [2011] JRC 194 (30 September 2011)

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JUDGMENT

THE commissioner: 1. The defendant stands to be sentenced for obstructing a police officer in the execution of his duty, assault committed whilst on bail, and for breaching a Community Service Order exceptionally imposed by the Court in relation to numerous driving offences and assaults against police officers. 2. When sentencing the defendant to community service in December 2010, the Deputy Bailiff said this:- "The Court has decided, exceptionally and as an act of mercy, not to sentence you to youth detention on this occasion. It does so because there is just a glimmer of light, a very small glimmer of light, despite your previous offending, in your attitude towards fatherhood." He also gave the following warning:- "This Court has absolutely no doubt at all that if you breach the terms of the Probation Order that we are going to impose on you or if you do not perform the community service that we are going to require you to do, then you will be sent to youth detention for these offences. I hope that is absolutely clear to you." 3. The defendant has 64 convictions for a large number of motoring offences, ten assaults, including seven on police officers, malicious damage, resisting arrest and three for obstructing police officers. He is assessed at a very high risk of reoffending. He is also considered not suitable for community service because of his poor performance. 4. Although the provisions of the Criminal Justice (Young Offenders)(Jersey) Law 1994 do not apply to him, bearing in mind that he is now 21 years of age, we agree with the Crown that had the defendant been 20 we would have imposed a sentence of youth detention because no other method of dealing with the defendant would have been appropriate. 5. We have considered carefully the mitigation, your residual youth, you are still 21, and of course the guilty pleas. The defendant's partner who is present in Court, has given birth recently to their second child and may need further treatment. She has written to us and through counsel has asked for mercy, in particular to assist her with the second child and with the other children, and we have considered her letter carefully. However the defendant informs us through counsel, that the relationship is over and after spending a few months at home assisting his partner, he will be moving out to accommodation of his own. 6. In our view, as much as we sympathise with his partner, and we do, the offending here is too serious to justify our exceptionally exercising mercy by imposing community service as requested by counsel, particularly in view of the defendant's poor record of community service, the strong reservations expressed by Mr Le Marrec, and because the Court exercised exceptional mercy in

December of last year. 7. We have considered the defendant's letter and the letter from his mother, the reports and all of the mitigation put forward by Miss Grace, but we say this. Firstly, the Court has already granted the defendant's plea for mercy and he has abused it. If the Court does exercise mercy, exceptionally, it does expect its act of leniency to be respected. Secondly, when the Court sentences a defendant to community service it expects that community service to be carried out fully. Community service is an important tool to enable the Court to keep a defendant, who would otherwise go to prison, in the community but any defendant subject to or sentenced to community service must understand that if he is given that opportunity then he abuses it at his peril. Thirdly, as made clear in the case of AG-v-Barwise

[2009] JRC 182 , we deprecate violence in the home, particularly in the presence of children. A woman's home should be a place of safety for her and for her children. We are therefore going to grant the conclusions of the Crown. 8. In relation to the First Indictment you are sentenced to 2 weeks' imprisonment. On the Second Indictment you are sentenced to 3 months' imprisonment, consecutive to the First Indictment. . For the previous offences Count 1; 2 months' imprisonment, Count 2; 3 months' imprisonment, concurrent, Count 3; 3 weeks' imprisonment, concurrent, Count 4; 3 months' imprisonment, concurrent, Count 5; 1 month's imprisonment, concurrent. That is a total of 3 months' imprisonment, consecutive to the First Indictment and the Second Indictment. Turning to Counts 6-10, for Count 6; 1 month's imprisonment, Count 7; 1 month's imprisonment, concurrent, Count 8; 1 month's imprisonment, concurrent, Count 8; 6 months' imprisonment, concurrent, Count 10; 9 months' imprisonment, concurrent. That is a total of 9 months' imprisonment, which will be consecutive to the First Indictment, the Second Indictment and Counts 1-5. Therefore the total that you will serve is 1 year, 3 months and 2 weeks' imprisonment. 9. We grant the Exclusion Order and you will be excluded from 1 st , 4 th and 7 th category licensed premises for a period of 12 months from your release but we exempt from that the usual premises which are exempted such as the Airport and the Arts Centre, and secondly, any premises at which you may be working whilst you are working. Authorities Criminal Justice (Young Offenders)(Jersey) Law 1994. AG-v-Barwise

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Prepared on 26 October 2026 · Esheria